

ESTTA Tracking number: **ESTTA432299**Filing date: **09/26/2011**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	ThinkFoodGroup, LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	425 8th Street, NW Suite 1131 Washington, DC 20004 UNITED STATES		

Attorney information	Rachel M. Hofstatter Steptoe & Johnson LLP 1330 Connecticut Avenue, NW Washington, DC 20036 UNITED STATES rhofstatter@steptoe.com, ipdocketing@steptoe.com, dmoltrup@steptoe.com Phone: 202-429-3000
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Registration Subject to Cancellation

Registration No	3986148	Registration date	06/28/2011
Registrant	Maple Leaf Foods Inc. 30 St. Clair Avenue West Toronto, Ontario, M4V3A2 CANADA		

Goods/Services Subject to Cancellation

Class 016. First Use: 2011/02/28 First Use In Commerce: 2011/02/28
All goods and services in the class are cancelled, namely: Printed materials, namely, newsletters, brochures, booklets, and pamphlets relating to the food industry; and notepads

Grounds for Cancellation

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Related Proceedings	Petitioner has filed Opposition No. 91201768 against the application for THINK FOOD! by Maple Leaf Foods Inc.
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Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3574147	Application Date	08/04/2006
Registration Date	02/10/2009	Foreign Priority Date	NONE
Word Mark	THINK FOOD GROUP		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 2006/07/31 First Use In Commerce: 2006/07/31 restaurant services

U.S. Registration No.	3574146	Application Date	08/04/2006
Registration Date	02/10/2009	Foreign Priority Date	NONE
Word Mark	THINKFOODGROUP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2006/07/31 First Use In Commerce: 2006/07/31 restaurant services		

U.S. Registration No.	3932702	Application Date	08/04/2006
Registration Date	03/15/2011	Foreign Priority Date	NONE
Word Mark	THINK FOOD TANK		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 2006/08/00 First Use In Commerce: 2006/08/00 research and development of new products for the food services industry

Attachments	78945144#TMSN.jpeg (1 page)(bytes) 78945131#TMSN.jpeg (1 page)(bytes) 78945154#TMSN.jpeg (1 page)(bytes) Petition for Cancellation - Maple Leaf THINK FOOD! and Design.pdf (6 pages)(93146 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Rachel M. Hofstatter/
Name	Rachel M. Hofstatter
Date	09/26/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration No. 3,986,148
Date of Issue: June 28, 2011

ThinkFoodGroup, LLC,

Opposer,

v.

Maple Leaf Foods Inc.,

Registrant.

Cancellation No.: _____

Honorable Commissioner for Trademarks
United States Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

ThinkFoodGroup, LLC (“Think Food Group” or “Opposer”), a limited liability company, with a place of business at 425 8th Street, NW, Suite 1131, Washington, DC 20004, believes that it is being and will continue to be damaged by the presence on the Principal Register of the mark Maple Leaf THINK FOOD! and Design, Registration No. 3,986,148, dated June 28, 2011 and hereby petitions to cancel the same.

As grounds for cancellation, it is alleged that:

1. Think Food Group is a premier provider of restaurant services and culinary innovation for the food service industry associated with three-time James Beard Award-winning chef José Andrés and award-winning restaurateur Rob Wilder. Think Food Group is behind many successful restaurants in Washington, D.C., Los Angeles and Las Vegas. In addition, Think Food Group operates the Think Food Tank, which provides research and development

services for culinary innovation, and Think Food Group is also the creative powerhouse behind José Andrés' media and branding ventures. These include, by way of example, the popular 26-series PBS show "Made in Spain" airing in markets that reach 90% of American households, numerous cookbooks, and other branded food and service products.

2. Since at least as early as July 2006, and long prior to February 28, 2011, the date of claimed first use of Registrant's Maple Leaf THINK FOOD! and Design Mark, Think Food Group has been and is now conducting its activities and business under the trade name THINK FOOD GROUP, in addition to its formal corporate name. Its restaurant services, research and development services, cookbooks, media programs and its famous chef and restaurateur have been the subject of considerable press, including stories on national television shows such as "60 Minutes." Said trade name THINK FOOD GROUP is now and has been so commonly used by Opposer and others to identify Opposer that Opposer is now and, since long prior to the Registrant's filing date, has been generally known and referred to by the name THINK FOOD GROUP.

3. Since at least as early as July 2006, and long prior to February 28, 2011, the date of claimed first use of Registrant's Maple Leaf THINK FOOD! and Design Mark, Think Food Group has offered restaurant services under its THINK FOOD GROUP and THINKFOODGROUP marks. Since at least as early as August 2006, and long prior to February 28, 2011, the date of claimed first use of Registrant's Maple Leaf THINK FOOD! and Design Mark, Think Food Group has offered its research and development services for the food services industry under its THINK FOOD TANK mark. The THINK FOOD GROUP, THINKFOODGROUP and THINK FOOD TANK marks are herein referred to as the "THINK FOOD Marks."

3. Each of the THINK FOOD Marks together with their respective goods and/or services have been extensively promoted, advertised and sold in interstate commerce in the United States. By virtue of the long, continued and widespread sale of goods and services identified by the THINK FOOD Marks, each of the THINK FOOD Marks has become extremely well known and recognized, and closely and uniquely identified with Think Food Group and its goods and services. Each of the THINK FOOD Marks has come to represent a large and extremely valuable goodwill belonging exclusively to Think Food Group.

4. Think Food Group owns registrations in the United States Patent and Trademark Office for the THINK FOOD Marks for the following goods and services under Reg. No. 3,574,146 dated February 10, 2009, Reg. No. 3,574,147 dated February 10, 2009, and Reg. No. 3,932,702 dated March 15, 2011:

Reg. No.	Mark	Services	Reg. Date
3,574,147	THINK FOOD GROUP	Restaurant services	February 10, 2009
3,574,146	THINKFOODGROUP	Restaurant services	February 10, 2009
3,932,702	THINK FOOD TANK	research and development of new products for the food services industry	March 15, 2011

These registrations are, and continue to be, valid, subsisting, unrevoked, uncanceled and in full force and effect, and Think Food Group is still the owner of the registrations and the THINK FOOD Marks shown therein and of all the business and goodwill connected therewith.

5. Upon information and belief, Registrant operates in Ontario, Canada, a culinary center called the Think Food Centre where food products and menu ideas are developed. Upon

information and belief, the Think Food Centre operates in Canada and does not operate in the United States.

6. Registrant obtained a registration on the Principal Register in the USPTO under Registration No. 3,986,148 dated June 28, 2011, for the mark depicted below for “[p]rinted materials, namely, newsletters, brochures, booklets, and pamphlets relating to the food industry; and notepads” in Class 16:



7. The dominant element of the registered mark is “THINK FOOD!”

8. Registrant’s Maple Leaf THINK FOOD! and Design designation so nearly resembles each of the previously used and registered THINK FOOD Marks as to be likely, when applied to the goods and services described in the registration, to cause confusion, to cause mistake, and to deceive, with consequent injury to Think Food Group and the public, in violation of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), and suggests a false connection with Opposer in violation of Section 2(a) of the Trademark Act, 15 U.S.C. § 1052(a).

9. Think Food Group will be damaged by the continued registration on the Principal Register of the Maple Leaf THINK FOOD! mark because such registration will support and assist Maple Leaf Foods in the confusing, misleading, and deceptive use of the mark sought to be registered, and will give color of exclusive statutory rights in Maple Leaf Foods in violation and derogation of the prior and superior rights of Think Food Group.

WHEREFORE, Think Food Group believes that it is being and will continue to be damaged by the continued presence on the Principal Register of said Reg. No. 3986148, and prays that it be canceled pursuant to Section 2(a) and Section 2(d) of the Trademark Act of 1946, 15 U.S.C. § 1052(a), (d).

Please recognize as attorneys for Think Food Group in this proceeding Scott A. Sinder (a member of the bar of the District of Columbia), William G. Pecau (a member of the bars of the states of New York and California and of the District of Columbia), and Rachel Hofstatter (a member of the bars of the state of Maryland and the District of Columbia) whose address is Steptoe & Johnson LLP, 1330 Connecticut Avenue, NW, Washington, D.C. 20036. Please address all communications to Rachel Hofstatter at the above address. Please charge any additional fees to Deposit Account 19-4293 and provide a receipt. Think Food Group has served a copy of this Petition for Cancellation on counsel for Registrant by first class mail on September 26, 2011. A Certificate of Service is attached.

Respectfully submitted,

STEPTOE & JOHNSON LLP

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Attorneys for ThinkFoodGroup, LLC

Dated: September 26, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused this PETITION FOR CANCELLATION to be served by postage prepaid, first class mail, on counsel for Registrant Maple Leaf Foods Inc., as follows:

Maria V. Hardison
Tassan & Hardison
4143 27th Street N
Arlington, VA 22207-5211

Dated: September 26, 2011

